IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-8440
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LEROY YOUNG,

Defendant-Appellant.

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Appeal from the United States District Court
for the Western District of Texas
USDC No. W-93-CA-063(W-89-CR-145) (3)

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(March 22, 1994)

Before KING, DAVIS, and DeMOSS, Circuit Judges.

PER CURIAM:[*]

"Relief under 28 U.S.C. § 2255 is reserved for transgressions of constitutional rights and for a narrow range of injuries that could not have been raised on direct appeal and would, if condoned, result in a complete miscarriage of justice." United States v. Vaughn, 955 F.2d 367, 368 (5th Cir. 1992). "A district court's technical application of the Guidelines does not give rise to a constitutional issue." Id.

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[*] Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Young's claim challenging the district court's application of the sentencing guidelines does not fall within the narrow ambit of § 2255 review. Moreover, whether the district court improperly cross-referenced under the guidelines was raised and disposed of on direct appeal. Notwithstanding Young's assertion that he should not be barred from seeking collateral relief, this Court will not reconsider this issue in a § 2255 motion. United States v. Santiago, 993 F.2d 504, 506 (5th Cir. 1993).

Young also challenges his trial counsel's failure to interview witnesses who would have attested at the sentencing hearing to his lack of involvement in any kidnapping. However, he raised his ineffective-assistance contention in the district court on different grounds. "If the defendant in [§ 2255] proceedings did not raise his claims before the district court, we do not consider them on appeal." United States v. Smith, 915 F.2d 959, 964 (5th Cir. 1990).

This appeal presents no issue of arguable merit; it is thus frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. See Fifth Circuit Rule 42.2.